

§ 7.49 Recall communications.

(a) *General.* A recalling firm is responsible for promptly notifying each of its affected direct accounts about the recall. The format, content, and extent of a recall communication should be commensurate with the hazard of the product being recalled and the strategy developed for that recall. In general terms, the purpose of a recall communication is to convey:

- (1) That the product in question is subject to a recall.
- (2) That further distribution or use of any remaining product should cease immediately.
- (3) Where appropriate, that the direct account should in turn notify its customers who received the product about the recall.

(4) Instructions regarding what to do with the product.

(b) *Implementation.* A recall communication can be accomplished by telegrams, mailgrams, or first class letters conspicuously marked, preferably in bold red type, on the letter and the envelope: "DRUG [or FOOD, BIOLOGIC, etc.] RECALL [or CORRECTION]". The letter and the envelope should be also marked: "URGENT" for class I and class II recalls and, when appropriate, for class III recalls. Telephone calls or other personal contacts should ordinarily be confirmed by one of the above methods and/or documented in an appropriate manner.

(c) *Contents.* (1) A recall communication should be written in accordance with the following guidelines:

- (i) Be brief and to the point;
- (ii) Identify clearly the product, size, lot number(s), code(s) or serial number(s) and any other pertinent descriptive information to enable accurate and immediate identification of the product;
- (iii) Explain concisely the reason for the recall and the hazard involved, if any;
- (iv) Provide specific instructions on what should be done with respect to the recalled products; and
- (v) Provide a ready means for the recipient of the communication to report to the recalling firm whether it has any of the product, e.g., by sending a postage-paid, self-addressed postcard or

by allowing the recipient to place a collect call to the recalling firm.

(2) The recall communication should not contain irrelevant qualifications, promotional materials, or any other statement that may detract from the message. Where necessary, followup communications should be sent to those who fail to respond to the initial recall communication.

(d) *Responsibility of recipient.* Consignees that receive a recall communication should immediately carry out the instructions set forth by the recalling firm and, where necessary, extend the recall to its consignees in accordance with paragraphs (b) and (c) of this section.

§ 7.50 Public notification of recall.

The Food and Drug Administration will promptly make available to the public in the weekly FDA Enforcement Report a descriptive listing of each new recall according to its classification, whether it was Food and Drug Administration-requested or firm-initiated, and the specific action being taken by the recalling firm. The Food and Drug Administration will intentionally delay public notification of recalls of certain drugs and devices where the agency determines that public notification may cause unnecessary and harmful anxiety in patients and that initial consultation between patients and their physicians is essential. The report will not include a firm's product removals or corrections which the agency determines to be market withdrawals or stock recoveries. The report, which also includes other Food and Drug Administration regulatory actions, e.g., seizures that were effected and injunctions and prosecutions that were filed, is available upon request from the Office of Public Affairs (HFI-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

§ 7.53 Recall status reports.

(a) The recalling firm is requested to submit periodic recall status reports to the appropriate Food and Drug Administration district office so that the agency may assess the progress of the recall. The frequency of such reports

will be determined by the relative urgency of the recall and will be specified by the Food and Drug Administration in each recall case; generally the reporting interval will be between 2 and 4 weeks.

(b) Unless otherwise specified or inappropriate in a given recall case, the recall status report should contain the following information:

(1) Number of consignees notified of the recall, and date and method of notification.

(2) Number of consignees responding to the recall communication and quantity of products on hand at the time it was received.

(3) Number of consignees that did not respond (if needed, the identity of non-responding consignees may be requested by the Food and Drug Administration).

(4) Number of products returned or corrected by each consignee contacted and the quantity of products accounted for.

(5) Number and results of effectiveness checks that were made.

(6) Estimated time frames for completion of the recall.

(c) Recall status reports are to be discontinued when the recall is terminated by the Food and Drug Administration.

§ 7.55 Termination of a recall.

(a) A recall will be terminated when the Food and Drug Administration determines that all reasonable efforts have been made to remove or correct the product in accordance with the recall strategy, and when it is reasonable to assume that the product subject to the recall has been removed and proper disposition or correction has been made commensurate with the degree of hazard of the recalled product. Written notification that a recall is terminated will be issued by the appropriate Food and Drug Administration district office to the recalling firm.

(b) A recalling firm may request termination of its recall by submitting a written request to the appropriate Food and Drug Administration district office stating that the recall is effective in accordance with the criteria set forth in paragraph (a) of this section, and by accompanying the request with

the most current recall status report and a description of the disposition of the recalled product.

§ 7.59 General industry guidance.

A recall can be disruptive of a firm's operation and business, but there are several steps a prudent firm can take in advance to minimize this disruptive effect. Notwithstanding similar specific requirements for certain products in other parts of this chapter, the following is provided by the Food and Drug Administration as guidance for a firm's consideration:

(a) Prepare and maintain a current written contingency plan for use in initiating and effecting a recall in accordance with §§ 7.40 through 7.49, 7.53, and 7.55.

(b) Use sufficient coding of regulated products to make possible positive lot identification and to facilitate effective recall of all violative lots.

(c) Maintain such product distribution records as are necessary to facilitate location of products that are being recalled. Such records should be maintained for a period of time that exceeds the shelf life and expected use of the product and is at least the length of time specified in other applicable regulations concerning records retention.

Subpart D [Reserved]

Subpart E—Criminal Violations

§ 7.84 Opportunity for presentation of views before report of criminal violation.

(a)(1) Except as provided in paragraph (a) (2) and (3) of this section, a person against whom criminal prosecution under the Federal Food, Drug, and Cosmetic Act is contemplated by the Commissioner of Food and Drugs shall be given appropriate notice and an opportunity to present information and views to show cause why criminal prosecution should not be recommended to a United States attorney.

(2) Notice and opportunity need not be provided if the Commissioner has reason to believe that they may result in the alteration or destruction of evidence or in the prospective defendant's fleeing to avoid prosecution.